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ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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MEMORANDUM

To: Republican Members and Staff of the Subcommittee on
Government Management, Organization, and Procurement

From: Republican Committee Staff

Date: March 23, 2009

Re: Hearing on “The Roles and Responsibilities of Inspectors General
within Financial Regulatory Agencies.”

On March 25, 2009, at 2 p.m. in Room 2247 RHOB, the Subcommittee will conduct a Hearing entitled “The Roles and Responsibilities of Inspectors General within Financial Regulatory Agencies.” The following topics will be discussed:

- Legislation sponsored by Rep. John Larson (D-CT), H.R. 885, the Improved Financial and Commodities Markets Oversight and Accountability Act. This legislation amends the IG Act to elevate certain IGs from agency head appointments to presidential appointments.
- A review of the IG Reform Act of 2008.¹ During the 110th Congress, the IG Act was amended to provide IGs additional authorities and safeguards to enhance their independence.
- A discussion of how inter-agency oversight initiatives are handled, and specifically how each office works with the new Special Inspector General of the Trouble Assets Relief Program (SIGTARP).

¹ The Inspector General Reform Act of 2008, Pub. L. No. 110-409, H.R. 928 (Oct. 14, 2008).

I. Background

Statutory offices of inspector general (OIG) consolidate responsibility for audits and investigations within a federal agency.² Established by public law as permanent, nonpartisan, independent offices, they now exist in more than 60 establishments and entities, including all departments and largest agencies, along with numerous boards and commissions. Under two major enactments—the Inspector General Act of 1978 and its amendments of 1988—inspectors general are granted substantial independence and powers to carry out their mandate to combat waste, fraud, and abuse.³

According to the Congressional Research Service (CRS) the four principal responsibilities of offices of inspector general are: (1) conducting and supervising audits and investigations relating to the programs and operations of the agency; (2) providing leadership and coordination and recommending policies to promote the economy, efficiency, and effectiveness of these; (3) preventing and detecting waste, fraud, and abuse in these; and (4) keeping the agency head and Congress fully and currently informed about problems, deficiencies, and recommended corrective action.⁴

Under the Inspector General Act, IGs in the larger establishments are appointed by the President subject to Senate confirmation and IGs for designated federal entities (DFEs) are appointed by the agency head.⁵ At the present time there are 59 IG offices authorized under the IG Act government-wide, of which 29 are presidential IGs and 30 are DFE IGs.⁶

II. H.R. 885 – The Improved Financial and Commodities Markets Oversight and Accountability Act

Rep. John Larson (D-CT) introduced H.R. 885, the Improved Financial and Commodities Markets Oversight and Accountability Act. The bill elevates five IGs from agency head appointments to presidential appointments under Section 3 of the IG Act. The five agencies are:

- Securities and Exchange Commission (SEC)
- Commodity Futures Trading Commission (CFTC)
- The Board of Governors of the Federal Reserve System (The Fed)
- Pension Benefit Guaranty Corporation (PBGC)
- National Credit Union Administration (NCUA)

² Congressional Research Service, *Statutory Offices of Inspectors General: Past and Present*, (Sep. 2008).

³ *Id.*

⁴ *Id.* at 1.

⁵ *Id.* at 2.

⁶ Briefing Memorandum, Majority Staff of H. Comm. on Oversight and Gov't Reform, *Re: Subcommittee on Government Management, Organization, and Procurement Hearing on the Roles and Responsibilities of Inspectors General within Financial Regulatory Agencies*, Mar. 20, 2008 [hereinafter Majority Memo].

The aim of Rep. Larson's legislation is to afford the same authorities and reporting requirements as other financial regulator IGs, such as the Department of the Treasury, the Federal Deposit Insurance Corporation, and the Special Inspector General for the Trouble Asset Relief Program (SIGTARP).

III. The Inspector General Reform Act of 2008

Giving IGs as much independence and thus, theoretically, oversight authority and enhanced capability has been a priority for the majority. During the previous Administration, the majority argued the IGs were rendered less independent as a result of political pressure. The majority concluded that increased IG autonomy makes for better oversight, and last Congress passed legislation designed to give the IGs greater independence.

The Inspector General Reform Act of 2008, P.L. No. 110-409, was enacted on October 14, 2008. According to CRS, the law creates additional protections and authorities for IGs with regard to removal or transfer of an IG, budgets, law enforcement authority, pay, subpoena power, and websites. The law's provisions affect federal establishment IGs, who are appointed by the President with Senate confirmation, and who may be removed only by the President except in the case of impeachment. The law also applies to designated federal entity (DFE) IGs, whose appointment and removal is overseen by their respective agency heads in usually smaller agencies. To a lesser degree, the reforms affect legislative branch IGs and special IGs with offices that will eventually terminate, such as the Special IG for Iraq Reconstruction.⁷

One focus of the subcommittee hearing will be to ascertain from the witnesses whether the 2008 legislation achieved its intended results. Several IGs have raised concerns with the Committee about their budget autonomy. Increased budget autonomy was a goal of the legislation.

IV. The Special Inspector General For Troubled Asset Relief Program

The Emergency Economic Stabilization Act of 2008 (EESA) established an additional special IG for the Troubled Asset Relief Program (TARP). Under EESA, TARP funds may be used by the Secretary of the Treasury to purchase "troubled assets," defined to include both mortgage-related financial instruments and other types of securities which the Secretary, after consulting the Chairman of the Board of Governors

⁷ Congressional Research Service, Memorandum to H. Comm. on Oversight and Gov't Reform, Subcommittee on Management, Organization, and Procurement, *Summary of the Inspector General Reform Act of 2008*(Mar. 11, 2009).

of the Federal Reserve System, determines to purchase as necessary “to promote financial stability.”⁸

As the majority notes in their briefing memo:

[T]he federal government has provided extensive financial assistance or guarantees to many institutions during the past year. Examples where government assistance was provided include Bear Stearns, Citigroup, American International Group, Bank of America, and Government Sponsored Enterprises such as Fannie Mae and Freddie Mac. Agency IGs have subsequently begun to audit and investigate those agency programs that were responsible for enforcement and oversight of the financial markets prior to the credit crisis.⁹

Due to the scope of the various TARP programs, numerous federal agencies have some role in TARP activities.¹⁰ As a result, significant coordination and collaboration is needed between agency IG offices and SIGTARP. To further facilitate SIGTARP’s coordination role, the Special Inspector General founded and chairs the TARP Inspector General Council (“TARP-IGC”), made up of the Comptroller General and those IGs whose oversight functions are most likely to touch on TARP issues. Current members include:

- Inspector General of the Department of the Treasury
- Inspector General of the Federal Reserve Board
- Inspector General of the Federal Deposit Insurance Corporation
- Inspector General of the Securities and Exchange Commission
- Inspector General of the Federal Housing Finance Agency
- Inspector General of the Department of Housing and Urban Development
- Treasury Inspector General for Tax Administration
- Comptroller General of the United States¹¹

The subcommittee will take testimony regarding the coordination of IG oversight initiatives between agency IG offices and the SIGTARP.

⁸ Congressional Research Service, *The Special Inspector General for the Troubled Asset Relief Program* (SIGTARP) (Mar. 2009).

⁹ Majority Memo at 3.

¹⁰ Office of the Special Inspector General for the Troubled Asset Relief Program, *Initial Report to Congress* (Feb. 6, 2009) at 20.

¹¹ *Id.*

V. Witnesses

The following witnesses have been invited to testify:

Panel 1

The Honorable John B. Larson, Member of Congress

Panel 2

Mr. H. David Kotz

Inspector General

U.S. Securities and Exchange Commission

Mr. A. Roy Lavik

Inspector General

Commodities Futures Trading Commission

Mr. Jeannette M. Franzel

Managing Director

U.S. Gov't Accountability Office

Ms. Vanessa K. Burrows

Legislative Attorney

Congressional Research Service

Mr. Clark Kent Ervin

Director, Homeland Security Program

Aspen Institute

Ms. Danielle Brian

Executive Director

Project on Government Oversight

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